

MAY 11 2006

EXPRESS MAIL NO.

PTO/SB/96 (08-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Rick V. Murakami et al.
 Application No./Patent No.: 09/814,607 Filed/Issue Date: March 22, 2001

Ensign Holdings, LLC

(Name of Assignee)

a Corporation(Type of Assignee, e.g., corporation, partnership,
university, government agency, etc.)

states that it is:

- the assignee of the entire right, title, and interest; or
- an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. An assignment from the inventor(s) of the patent application/patent identified above.
 The assignment was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. A chain of title from the inventor(s), of the patent application/patent identified above, to the
 current assignee as shown below:

1. From: Inventors To: Tarian LLCThe document was recorded in the United States Patent and Trademark Office at
 Reel 012017, Frame 0508, or for which a copy thereof is attached2. From: Tarian LLC To: Union RecoveryThe document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached3. From: Union Recovery To: Kirton & McConkieThe document was recorded in the United States Patent and Trademark Office at
 Reel 015656, Frame 0027, or for which a copy thereof is attached. Additional documents in the chain of title are listed on a supplemental sheet. Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

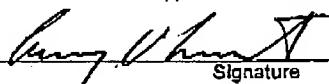
The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

8 May 06

Date

Larry Lunt

Typed or printed name



Signature

Manager

Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

CENTRAL FAX CENTER

MAY 11 2006

PTO/SB/82 (04-05)

Doc Code:

Approved for use through 11/30/2005. OMB 0651-0035
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS	Application Number	09/814,607
	Filing Date	March 22, 2001
	First Named Inventor	Rick V. Murakami
	Art Unit	2131
	Examiner Name	Aravind K. Moorthy
	Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application: A Power of Attorney is submitted herewith.**OR** I hereby appoint the practitioners associated with the Customer Number: **32642** Please change the correspondence address for the above-identified application to: The address associated with Customer Number:**32642****OR** Firm or Individual Name

Address

City

State

ZIP

Country

Telephone

Email

I am the:

 Applicant/Inventor. Assignee of record of the entire interest. See 37 CFR 3.71
Statement under 37CFR 3.73(b) is enclosed. (Form PTO/SB/96)**SIGNATURE of Applicant or Assignee of Record**

Signature

Larry Lunt

Name

Larry Lunt

Date

8 May 06

Telephone (801) 328-1866

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

 *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.38. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending on the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

ASSET ACQUISITION AGREEMENT

AMONG

UNION RECOVERY CORPORATION

AND

TARIAN LIMITED LIABILITY COMPANY

MAY 24, 2002

ASSET ACQUISITION AGREEMENT

This ASSET ACQUISITION AGREEMENT (this "*Agreement*") is made and entered into as of May __, 2002 (the "*Agreement Date*") by and among Union Recovery Corporation, a Washington corporation ("*Union*") and Tarian LLC, a Utah limited liability company ("*Company*").

RECITALS

The parties intend that, subject to the terms and conditions hereinafter set forth, Union will purchase all of the Assets of Company (the "*Asset Acquisition*"), all pursuant to the terms and conditions of this Agreement and applicable law.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and conditions contained herein, the parties hereby agree as follows:

ARTICLE 1 CERTAIN DEFINITIONS

As used in this Agreement, the following terms will have the meanings set forth below:

"Applicable Law" means all federal, state, foreign or local laws, ordinances, regulations and rules, and all orders, writs, injunctions, awards, judgments and decrees, applicable to a specified Person or to such Person's assets, properties and business.

"Assets" means all of Company's Intellectual Property, books, records, the "Tarian" name and all other names or trade names used by Company, claims of every type and nature, insurance policies and claims, bank accounts and deposits therein, investment accounts, and accounts of every type or nature, goodwill, and all other property, whether real or personal, tangible or intangible, not otherwise specified herein of Company.

"Company Business" means the business of Company as presently conducted.

"Company Website" means each website, or other site accessed via the Internet or any other electronic network (other than Company's internal network known as an "intranet" or "virtual private network"), that is or has been wholly or partly owned or controlled by or on behalf of Company at any time.

"Effective Time" means the date and time on which the initial down-payment provided in Section 2.1.1 is paid to Company.

"Encumbrance" means, with respect to any asset, any mortgage, deed of trust, lien, pledge, charge, security interest, title retention device, collateral assignment, claim,

restriction or other encumbrance of any kind in respect of such asset (including any restriction on the voting of any security, any restriction on the transfer of any security or other asset, any restriction on the receipt of any income derived from any asset, any restriction on the use of any asset and any restriction on the possession, exercise or transfer of any other attribute of ownership of any asset).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Foreign Governmental Authority" means any foreign court, administrative agency, commission or other governmental authority.

"Intellectual Property" means, collectively, all worldwide industrial and intellectual property rights, including patents, patent applications, patent rights, trademarks, trademark registrations and applications therefore, trade dress rights, trade names, service marks, service mark registrations and applications therefore, Internet domain names, Internet and World Wide Web URLs or addresses, copyrights, copyright registrations and applications therefore, franchises, licenses, inventions, trade secrets, know-how, customer lists, supplier lists, databases (including, without limitation, domain name registration data and registrant data) proprietary processes and formulae, software source code and object code, algorithms, net lists, architectures, structures, screen displays, photographs, images, layouts, development tools, designs, blueprints, specifications, technical drawings (or similar information in electronic format) and all documentation and media constituting, describing or relating to the foregoing, including manuals, programmers' notes, memoranda and records.

"Knowledge" means, with respect to any fact, circumstance, event or other matter in question, the actual knowledge, without independent investigation, of such fact, circumstance, event or other matter of (a) an individual, if used in reference to an individual, or (b) any officer or director and, in the case of Company, a Member of such party, if used in reference to a Person that is not an individual.

"Legal Requirements" means any federal, state, local, municipal, foreign or other law, statute, constitution, resolution, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any U.S. Governmental Authority or Foreign Government Authority.

"Material Adverse Change" or **"Material Adverse Effect,"** when used with reference to any entity or group of related entities, means any event, change, violation or effect (regardless of whether or not such events or changes are inconsistent with the representations or warranties made by such party in this Agreement) that is or is reasonably likely to be, individually or in the aggregate, materially adverse to the condition (financial or otherwise), assets (including intangible assets), operations or results of operations of such entity.

"Member" means the record holders of ownership interests in Company immediately prior to the Effective Time as set forth in Exhibit A attached hereto.

"Person" means any individual, corporation (including any not-for-profit corporation), partnership, limited liability partnership, joint venture, estate, trust, firm, company (including any limited liability company or joint stock company), association, organization, entity or Governmental Authority.

"Public Software" means any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g., Linux) or similar licensing or distribution models, including, but not limited to software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: (i) GNU's General Public License (GPL) or Lesser/Library GPL (LGPL), (ii) The Artistic License (e.g., PERL), (iii) the Mozilla Public License, (iv) the Netscape Public License, (v) the Sun Community Source License (SCSL), (vi) the Sun Industry Standards License (SISL), (vii) the BSD License and (viii) the Apache License.

"Purchase Price" means three million eighty thousand dollars (\$3,080,000.00) in the aggregate.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Subsidiary" of a specified entity means any corporation, partnership, limited liability company, joint venture or other legal entity of which the specified entity (either alone or through or together with any other subsidiary) owns, directly or indirectly, twenty percent (20%) or more of the stock or other equity or partnership interests the holders of which are generally entitled to vote for the election of the Board of Directors or other governing body of such corporation or other legal entity.

"U.S. Governmental Authority" means any United States court, administrative agency, commission or other governmental authority.

"Washington Law" means the Washington Business Corporation Act.

ARTICLE 2 THE ASSET ACQUISITION TRANSACTION

2.1 Purchase of Assets.

Union shall and does hereby agree to purchase all of the Assets of Company for and in consideration of the payment of the Purchase Price. The Purchase Price shall be delivered to Company as follows:

2.1.1 The payment of the eighty thousand dollars (\$80,000.00) on a date which is ninety (90) calendar days from the Closing Date;

2.1.2 The payment of five hundred thousand dollars (\$500,000.00) on the anniversary of the Closing Date each year for 6 consecutive years. Union shall be entitled to make any or all of the foregoing payments before the due date thereof and shall be entitled to a discount equal to ten percent (10%) of said payment amount if the early payment is made at least eleven (11) months before the scheduled due date of the same.

2.2 Effects of the Asset Acquisition.

At and upon the Closing Date, all of the Assets shall be deemed assigned, conveyed, and transferred to Union, and Union shall be deemed the exclusive owner thereof.

2.3 Further Assurances.

If, at any time before or after the Closing Date, any party to this Agreement believes or is advised that any further instruments, deeds, assignments or assurances are reasonably necessary or desirable to consummate the Asset Acquisition or to carry out the purposes and intent of this Agreement at or after the Closing Date, then Company and Union, and their respective management will execute and deliver all such proper instruments, deeds, assignments and assurances and do all other things necessary or desirable to consummate the Asset Acquisition and to carry out the purposes and intent of this Agreement.

**ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF COMPANY**

The Company represents and warrants to Union as follows in this Article 3, subject to such exceptions as set forth in the letter addressed to Union from Company and dated as of the Agreement Date (including all schedules thereto), which has been delivered by Company to Union concurrently herewith (the "*Company Disclosure Letter*"). For all purposes of this Agreement, the statements contained in the Company Disclosure Letter and its schedules shall also be deemed to be representations and warranties made and given by Company under Article 3 of this Agreement. The Company shall have the right to update the Company Disclosure Letter on or prior to two (2) business days before the Closing in respect to any development, circumstance, event or occurrence that arises after the Agreement Date.

wherein
thus

3.1 Organization and Good Standing.

Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Utah and has continuously been in good standing under the laws of that jurisdiction since its inception. Company has the power and authority to own, operate and lease the Assets, properties and to carry on its business as now conducted and as currently proposed to be conducted, and is qualified or licensed to do business and is

in good standing in each jurisdiction in which the failure to be so qualified or licensed would have a Material Adverse Effect on Company (each such jurisdiction being listed on Schedule 3.1 of the Company Disclosure Letter).

3.2 Subsidiaries.

Except as listed on Schedule 3.2 of the Company Disclosure Letter, Company has no Subsidiaries or any equity or ownership interest, whether direct or indirect, in, or loans to, any corporation, partnership, limited liability company, joint venture or other business entity. Company is not obligated to make, nor bound by any agreement or obligation to make, any investment in or capital contribution in or on behalf of any Subsidiary or other entity.

3.3 Power, Authorization and Validity.

3.3.1 Power and Authority.

Company has the right, power and authority to enter into and perform its obligations under this Agreement and all agreements and documents to which Company is or will be a party that are required to be executed pursuant to this Agreement (the "*Company Ancillary Agreements*"). The execution, delivery and performance of this Agreement and the Company Ancillary Agreements have been duly and validly approved and authorized by all company action required on the part of the Company.

3.3.2 No Consents.

No consent, approval, permit, order or authorization from, or registration, declaration or filing with, any U.S. Governmental Authority or Foreign Governmental Authority or any other Person, governmental or otherwise, is necessary or required to be made or obtained by Company to enable Company to lawfully execute and deliver, enter into, and to perform its obligations under this Agreement or the Company Ancillary Agreements, and for Company to consummate the Asset Acquisition contemplated by this Agreement.

3.3.3 Enforceability.

This Agreement has been duly executed and delivered by Company. Assuming due authorization, execution and delivery of this Agreement and the Company Ancillary Agreements by Union (if Union is a party to such Agreements), this Agreement and the Company Ancillary Agreements are, or when executed by Company will be, valid and binding obligations of Company enforceable against Company in accordance with their respective terms, subject only to the effect now or hereafter, if any, of (a) applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally; (b) rules of law and equity governing specific performance, injunctive relief and other equitable remedies; and (c) the enforceability of provisions requiring indemnification in connection with the offering, issuance or sale of securities.

3.4 Holders of Ownership Percentage Interests.

Except as listed on Exhibit A, no individuals, entities or other enterprises own, directly or indirectly, any equity or ownership interest in Company.

3.5 No Conflict.

Neither the execution and delivery of this Agreement nor any of the Company Ancillary Agreements by Company, nor the consummation of the Asset Acquisition or any of the other transactions contemplated hereby or thereby, will (a) conflict with, or (with or without notice or lapse of time, or both) result in a termination, breach, impairment or violation of, or constitute a default under, (i) any provision of the charter or governing documents of the Company as currently in effect, or (ii) any Applicable Law applicable to Company or any of its material Assets or properties, or (b) require the consent, approval, assignment, notice, release, waiver, authorization or other certificate of any third party to ensure that, following the Effective Time, any agreement, contract, undertaking, understanding, letter of intent, memorandum of understanding, commitment (whether verbal or in writing), material instrument (including any patent application or filing, note, bond, mortgage or indenture), lease, license, permit, franchise, assignment, transaction, obligation or Company Material Agreement (as defined in Section 3.11) to which Company is a party or by which Company or any of its assets or properties are bound or affected continues to be in full force and effect without any breach or violation thereof.

3.6 Litigation.

There is no action, suit, arbitration, mediation, proceeding, claim or, to Company's knowledge, investigation pending against Company (or, to Company's knowledge, against any officer, director, employee or agent of Company in their capacity as such or relating to their employment, services or relationship with Company) before any court, U.S. Governmental Authority, Foreign Government Authority or arbitrator, nor, to Company's knowledge, has any such action, suit, arbitration, mediation, proceeding, claim or investigation been threatened. There is no judgment, decree, injunction, rule or order of any court, U.S. Governmental Authority, Foreign Government Authority or arbitrator outstanding against Company. To Company's knowledge, there is no basis for any Person to assert a claim against Company or Assets that could reasonably be expected to have a Material Adverse Effect based upon: (a) Company's entering into this Agreement, any Company Ancillary Agreement or consummating the Asset Acquisition or any of the transactions contemplated by this Agreement or any Company Ancillary Agreement; (b) any confidentiality or similar agreement entered into by Company; (c) any claim that Company has agreed to sell or dispose of all or any substantial portion of its Assets or business to any party other than Union, whether by way of merger, consolidation, sale or assets or otherwise.

3.7 Title to Assets.

Company has good and marketable title to all of the Assets to be acquired by Union herein, free and clear of all Encumbrances. Schedule 3.7 of the Company Disclosure Letter sets forth a complete and accurate list and a brief description of all Assets of Company.

provided, that such list need not describe the Company IP Rights (as defined in Section 3.11.1).

3.8 Absence of Certain Changes.

Since the March 3, 2002, Company has operated its business in the ordinary course, consistent with its past practice, and from that date there has not been with respect to Company any:

(a) notice of, or any other fact or event that could result in, a Material Adverse Change;

(b) incurrence, creation or assumption by Company of (i) any Encumbrance on any of the Assets of Company, or (ii) any obligation or liability or any indebtedness for borrowed money, that would adversely affect in any way Unions title to or interests in the Assets.

(c) purchase, license, sale, assignment or other disposition or transfer, or any agreement or other arrangement for the purchase, license, sale, assignment or other disposition or transfer, of any of the Assets of Company;

(d) damage, destruction or loss that could reasonably be expected to have a Material Adverse Effect on the Company of any material Asset, whether or not covered by insurance;

(e) agreement made by Company to provide exclusive services to any Person or not to engage in any type of business activity, which agreement might encumber or affect title in any way in or to the Assets; or

(f) except as set forth in Schedule 3.11.2 of the Company Disclosure Letter, license, transfer or grant of a right under any Company IP Rights.

3.9 Contracts and Commitments/Licenses and Permits.

Schedule 3.9 of the Company Disclosure Letter sets forth a list (except as set forth in Schedule 3.10.2 of the Company Disclosure Letter) of each of the following written or oral contracts, agreements, leases, licenses, permits, assignments, mortgages, transactions, obligations, commitments or other instruments to which Company is a party or to which Company or any of the assets or properties is bound, including:

(a) any contract or agreement providing for payments (whether fixed, contingent or otherwise) by or to Company in an aggregate amount of \$1,000 or more;

(b) any contract providing for the development of any software, content (including textual content and visual, photographic or graphics content), technology or Intellectual Property for (or for the benefit or use of) Company, or providing for the purchase

or license of any software, content (including textual content and visual, photographic or graphics content), technology or Intellectual Property to (or for the benefit or use of) Company, which software, content, technology or Intellectual Property is in any manner used or incorporated (or is contemplated by Company to be used or incorporated) in connection with any aspect or element of any product, service or technology of Company.

(c) any indenture, mortgage, trust deed, promissory note, loan agreement, security agreement, guarantee or other agreement or commitment for the borrowing of money, for a line of credit or for a leasing transaction for which the Assets, or any part thereof, have been pledged as collateral, or which may encumber in any way the Assets or any part of them;

(d) any Company IP Rights Agreement (as defined in Section 3.11.2) other than object code licenses of commercial off-the-shelf computer software under shrink-wrap or other non-negotiated agreements having a cost of less than \$500 per seat;

(e) any material website hosting, website linking, content or data sharing, data feed, information exchange, advertising, distribution, fee sharing, lead or customer referral, commerce, co-branding, escrow services or similar agreement relating to any aspect or element of each Company Website;

A true and complete copy of each agreement or document (or written summaries of the terms of any oral contract) required by these subsections (a) through (m) of this Section 3.11 to be listed on Schedule 3.9 of the Company Disclosure Letter (such agreements and documents being herein collectively referred to as the "*Company Material Agreements*") has been made available to Union's legal counsel.

3.10 No Default; No Restrictions.

(a) Company is not, nor to Company's knowledge is any other party, in material breach or default under any Company Material Agreement. To the Company's knowledge, no event has occurred that (with or without notice or lapse of time, or both) will, or would reasonably be expected to, (i) result in a material violation or breach by Company, or to Company's knowledge, by any other party, of any of the provisions of any Company Material Agreement, or (ii) give any third party, to Company's knowledge, (A) the right to declare a default or exercise any remedy under any Company Material Agreement, (B) the right to a refund, rebate, charge back or penalty under any Company Material Agreement, (C) the right to accelerate the maturity or performance of any obligation of Company under any Company Material Agreement, or (D) the right to cancel, terminate or modify any Company Material Agreement. Company has not received any notice or other communication regarding any actual or possible violation or breach of, or default under, any Company Material Agreement. Company has no material liability for renegotiation of government contracts or subcontracts, if any.

(b) Company is not a party to, and no asset or property of Company is bound or affected by, any judgment, injunction, order, decree, contract, covenant or agreement (noncompete or otherwise) that restricts or prohibits, or purports to restrict or prohibit, Company or, following the Effective Time, Union from freely exploiting the Assets or from competing anywhere in the world.

3.11 Intellectual Property

3.11.1 Company (a) owns and has independently developed, or (b) has the valid right or license to all Intellectual Property being acquired by Union pursuant hereto (such Intellectual Property being hereinafter collectively referred to as the "*Company IP Rights*"). As used in this Section 3.11, "*Company-Owned IP Rights*" means Company IP Rights that are owned by or exclusively licensed to Company; and "*Company-Licensed IP Rights*" means Company IP Rights that are not Company-Owned IP Rights.

3.11.2 Neither the execution, delivery and performance of this Agreement, or the consummation of the Asset Acquisition and the other transactions contemplated by this Agreement and/or by Company Ancillary Agreements will, in accordance with their terms: (a) constitute a material breach of or default under any instrument, contract, license or other agreement governing any Company IP Rights to which Company is a party (collectively, the "*Company IP Rights Agreements*"); (b) cause the forfeiture or termination of, or give rise to a right of forfeiture or termination of, any Company IP Rights where such forfeiture or termination would have a Material Adverse Effect on the Assets; or (c) materially impair the right of Union to use any Company IP Rights or portion thereof in the conduct of its business. There are no royalties, honoraria, fees or other payments payable by Company to any Person as a result of the ownership, use, possession, license-in, sale, marketing, advertising or disposition of any Company IP Rights and none will become payable as a result of the consummation of the transactions contemplated by this Agreement.

3.11.3 Neither the use, development, manufacture, marketing, license, sale, furnishing or intended use of any product or service currently licensed, sold, provided or furnished by Company or currently under development by Company violates any license or agreement between Company and any third party or to Company's knowledge infringes or misappropriates any Intellectual Property Right of any third party. Company has not received any written notice of any pending or threatened claim or litigation contesting the validity, ownership or right of Company to exercise any Company IP Right nor has Company received any written notice asserting that any Company IP Right or the proposed use, sale, license or disposition thereof conflicts or will conflict with the rights of any other third party.

3.11.4 To Company's knowledge, no current Member, employee, consultant or independent contractor of Company: (a) is in material violation of any term or covenant of any employment contract, patent disclosure agreement, invention assignment agreement, non-disclosure agreement, noncompetition agreement or any other contract or agreement with any other party by virtue of such Member's, employee's, consultant's, or independent contractor's being employed by, or performing services for, Company or using trade secrets or

proprietary information of others without permission; or (b) has developed any technology, software or other copyrightable, patentable, or otherwise proprietary work for Company that is subject to any agreement under which such Member, employee, consultant or independent contractor has assigned or otherwise granted to any third party any rights (including Intellectual Property) in or to such technology, software or other copyrightable, patentable or otherwise proprietary work. The employment of any employee of Company or the use by Company or of the services of any Member, consultant or independent contractor does not, to Company's knowledge, subject Company to any liability to any third party for improperly soliciting such employee, Member, consultant, or independent contractor to work for Company, whether such liability is based on contractual or other legal obligations to such third party.

3.11.5 Company has taken commercially reasonable steps to protect, preserve and maintain the secrecy and confidentiality of Company's material confidential information used in the conduct of the Company Business and to preserve and maintain all Company's interests and proprietary rights in Company IP Rights. All Members, officers, employees and consultants of Company having access to material confidential information of Company, its customers or business partners and inventions owned by Company, have executed and delivered to Company an agreement regarding the protection of such proprietary information and the assignment of Company's inventions to Company (in the case of proprietary information of Company's customer and business partners, to the extent required by such customers and business partners); and copies of all such agreements have been made available to Union's counsel. Company has secured valid written assignments from all of Company's Members, consultants, contractors and employees who were involved in, or who contributed to, the creation or development of any Company-Owned IP Rights, of the rights to such contributions that may be owned by such Persons or that Company does not already own by operation of law. To Company's knowledge, no current or former Member, employee, officer, director, consultant or independent contractor of Company has any right, license, claim or interest whatsoever in or with respect to any Company IP Rights.

3.11.6 Schedule 3.11.6 of the Company Disclosure Letter contains a true and complete list of (a) all worldwide registrations made in the name of or on behalf of Company of any patents, copyrights, mask works, trademarks, service marks, or other Intellectual Property rights with any governmental or quasi-governmental authority; and (b) all applications, registrations, filings and other formal written governmental actions made or taken pursuant to federal, state and foreign laws by Company to secure, perfect or protect its interest in Company IP Rights, including all patent applications, copyright applications, and applications for registration of trademarks and service marks. To Company's Knowledge, all patents, registered trademarks, registered service marks, and copyrights held by Company, all of which are being acquired by Union herein, are valid, enforceable and subsisting.

3.11.7 The Company owns all right, title and interest in and to all Company-Owned IP Rights free and clear of all Encumbrances and licenses (other than licenses and rights listed in Schedule 3.11.8 of the Company Disclosure Letter). Company's right, license and interest in and to all Company-Licensed IP Rights are free and clear of all

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Encumbrances and licenses (other than licenses and rights listed in Schedule 3.11.8 of the Company Disclosure Letter).

3.11.8 Schedule 3.11.8 of the Company Disclosure Letter contains a true and complete list of (a) all licenses, sublicenses and other agreements as to which Company is a party and pursuant to which any Person is authorized to use any Company IP Rights, and (b) all licenses, sublicenses and other agreements as to which Company is a party and pursuant to which Company is authorized to use any third party Intellectual Property other than object code licenses of commercial off-the-shelf computer software under shrink-wrap or other non-negotiated agreements having a cost of less than \$500 per seat.

3.11.9 Except as set forth in Schedule 3.11.9 of the Company Disclosure Letter, neither Company, nor any other party acting on their behalf, has disclosed or delivered to any party, or permitted the disclosure or delivery to any escrow agent or other party, of any Company Source Code (as defined below). No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or would reasonably be expected to, result in the disclosure or delivery by Company or any other party acting on Company's to any party of any Company Source Code. Schedule 3.11.9 of the Company Disclosure Letter identifies each contract, agreement and instrument (whether written or oral) pursuant to which Company has deposited, or is or may be required to deposit, with an escrowholder or any other party, any Company Source Code and further describes whether the execution of this Agreement or the consummation of the Asset Acquisition or any of the other transactions contemplated by this Agreement, in and of itself, would reasonably be expected to result in the release from escrow of any Company Source Code. As used in this Section 3.11.9, "*Company Source Code*" means, collectively, any software source code, or any material portion or aspect of the software source code, or any material proprietary information or algorithm contained in or relating to any software source code, of any Company-Owned IP Rights or any other product marketed or currently proposed to be marketed by Company.

3.11.10 To Company's knowledge, there is no unauthorized use, disclosure, infringement or misappropriation of any Company IP Rights by any third party, including any Member, employee or former Member or employee of Company. Except as set forth in Schedule 3.11.10 of the Company Disclosure Letter, Company has not agreed to indemnify any Person for any infringement of any Intellectual Property of any third party by any product or service that has been sold, licensed to third parties, leased to third parties, supplied, marketed, distributed, or provided by Company.

3.11.11 Company has no material liability for replacement or repair of any software developed by Company and licensed by Company to customers or other damages in connection.

3.11.12 No government funding; facilities of a university, college, other educational institution or research center; or funding from third parties (other than funds received in consideration for membership interests of Company or issuance of debt) was used

in the development of the Company IP Rights, including patents, computer software programs or applications owned by Company and being acquired by Union hereunder. To Company's knowledge, no current or former Member, employee, consultant or independent contractor of Company, who was involved in, or who contributed to, the creation or development of any Company IP Rights, has performed services for the government, university, college, or other educational institution or research center during a period of time during which such Member, employee, consultant or independent contractor was also performing services for Company.

3.11.13 Except as set forth in Schedule 3.11.13 of the Company Disclosure Letter, no Public Software forms part of the Company-Owned IP Rights or was or is used in connection with the development of any Company-Owned IP Right, incorporated in whole or in part, or has been distributed, in whole or in part, in conjunction with any Company-Owned IP Rights.

3.11.14 Except as set forth in Schedule 3.11.14 of the Company Disclosure Letter, no Public Software forming part of the Company-Owned IP Rights is software that requires as a condition of use, modification and/or distribution of such software that other software distributed with such software: (i) be disclosed or distributed in source code form; (ii) be licensed for the purpose of making derivative works; or (iii) be redistributable at no charge.

3.11.15 Company has received no notice from any U.S. Governmental Authority or Foreign Governmental Authority of any material complaint affecting in any way the Assets.

3.12 Compliance with Laws.

3.12.1 Company has materially complied, and is now and at the Closing Date will be in material compliance, with all Applicable Law, the failure to comply with which would, individually or in the aggregate, have a Material Adverse Effect on the Company or the Assets.

3.12.2 All materials and products distributed or marketed by Company have at all times made all material disclosures to users or customers required by Applicable Law, and, to Company's knowledge, none of such disclosures made or contained in any such materials and products has been materially inaccurate, misleading or deceptive in any material respect.

3.13 Certain Transactions and Agreements.

None of the Members, officers, directors or, to Company's knowledge, any employees of Company has any direct or indirect ownership interest in any firm or corporation that competes with, does business with, or has any contractual arrangement with, Company (except with respect to any interest in less than one percent (1%) of the stock of any corporation whose stock is publicly traded). None of the Members, officers, directors, or

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employees of Company has any of the Assets (including, but not limited to, any Company IP Rights or any other Intellectual Property), except for the rights of a Company Member.

3.14 Release of Claims Against Kevin Nelson and/or Union.

Company acknowledges and agrees that during the period prior to the Effective Date, Kevin Nelson has acted as an intermediary to facilitate and arrange the Asset Acquisition between the parties. Company further acknowledges that this may have created a potential conflict of interest or other claims that may be assertable or claim by or against Mr. Nelson and hereby unconditionally waives and releases all such claims against Mr. Nelson.

3.15 Books and Records.

The books, records and accounts of Company: (a) are in all material respects true, complete and correct; and (b) accurately and fairly reflect the transactions and dispositions of Company's Assets.

3.16 No Existing Discussions.

Neither Company, nor any Member, director or officer of Company is engaged, directly or indirectly, in any discussions or negotiations with any third party relating to any Alternative Transaction (as defined in Section 5.7). To Company's knowledge, no employee or agent of Company, directly or indirectly, in any discussions or negotiations with any third party relating to any Alternative Transaction.

3.17 Disclosure.

Neither this Agreement, its Exhibits and Schedules and the Company Disclosure Letter, nor any Company Ancillary Agreements delivered by Company to Union under this Agreement, taken together, contains any untrue statement of a material fact.

**ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF UNION**

Union represents and warrants to Company as follows in this Article 4, subject to such exceptions as set forth in the letter addressed to Company from Union and dated as of the Agreement Date (including all schedules thereto) that has been delivered by Union to Company concurrently herewith (the "*Union Disclosure Letter*"). Union shall have the right to update the Union Disclosure Letter on or prior to two (2) business days before the Closing in respect to any development, circumstance, event or occurrence that arises after the Agreement Date.

4.1 Organization and Good Standing.

Union is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington and has continuously been in good standing under the laws

of that jurisdiction since its inception. Union has the corporate power and authority to own, operate and lease its properties and to carry on its business as now conducted and as currently proposed to be conducted. Union is qualified or licensed to do business and is in good standing in each jurisdiction in which the failure to be so qualified or licensed would have a Material Adverse Effect on Union (each such jurisdiction being listed on Schedule 4.1 of the Union Disclosure Letter).

4.2 Power, Authorization and Validity.

4.2.1 Power and Authority.

Union has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement and all agreements and documents to which Union is or will be a party that are required to be executed pursuant to this Agreement (the "*Union Ancillary Agreements*"). The execution, delivery and performance of this Agreement and the Union Ancillary Agreements have been duly and validly approved and authorized by all necessary corporate action on the part of Union.

4.2.2 No Consents.

No consent, approval, permit, order or authorization from, or registration, declaration or filing with, any U.S. Governmental Authority or any other Person, governmental or otherwise, is necessary or required to be made or obtained by Union to enable Union to lawfully execute and deliver, enter into, and to perform its obligations under this Agreement or the Union Ancillary Agreements, and for Union to consummate the Asset Acquisition.

4.2.3 Enforceability.

This Agreement has been duly executed and delivered by Union. This Agreement and the Union Ancillary Agreements are, or when executed by Union will be, valid and binding obligations of Union enforceable against Union in accordance with their respective terms, subject only to the effect of (a) applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally; (b) rules of law and equity governing specific performance, injunctive relief and other equitable remedies; and (c) the enforceability of provisions requiring indemnification in connection with the offering, issuance or sale of securities.

4.3 No Conflict.

Neither the execution and delivery of this Agreement nor any of the Union Ancillary Agreements by Union, nor the consummation of the Asset Acquisition or any of the other transactions contemplated hereby or thereby, will (a) conflict with, or (with or without notice or lapse of time, or both) result in a termination, breach, impairment or violation of, or constitute a default under, (i) any provision of the Certificates of Incorporation or Bylaws of

Union, as currently in effect, or (ii) any Applicable Law applicable to Union or any of its material assets or properties.

4.4 No Brokers.

Union is not obligated for the payment of any fees or expenses of any investment banker, broker, finder or similar party in connection with the origin, negotiation or execution of this Agreement or in connection with the Asset Acquisition or any other transaction contemplated by this Agreement.

4.5 Disclosure.

Neither this Agreement, its Exhibits and Schedules and the Union Disclosure Letter, nor any Union Ancillary Agreements delivered by Union to Company under this Agreement, taken together, contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which such statements were made, not misleading.

**ARTICLE 5
COMPANY COVENANTS**

During the time period from the Agreement Date until the earlier to occur of (a) the Effective Time or (b) the termination of this Agreement in accordance with the provisions of Article 9 (or during such other time period as may be specified below), Company covenant and agree with Union as follows:

5.1 Advice of Changes.

Company will promptly advise Union in writing of any (a) event occurring subsequent to the Agreement Date that would render any representation or warranty of Company contained in this Agreement, if made on or as of the date of such event or the Closing Date, untrue or inaccurate, (b) breach of any covenant or obligation of Company pursuant to this Agreement or any Company Ancillary Agreement, or (c) Material Adverse Change in Company.

5.2 Regulatory Approvals.

Company will promptly execute and file, or join in the execution and filing of, any application, notification or other document that may be necessary in order to obtain the authorization, approval or consent of any U.S. Governmental Authority or Foreign Government Authority that may be reasonably required in connection with the consummation of the Asset Acquisition or any other transactions contemplated by this Agreement or any Company Ancillary Agreement. Company will use commercially reasonable efforts to obtain, and to cooperate with Union to promptly obtain, all such authorizations, approvals and consents.

5.3 Necessary Consents.

Company will use commercially reasonable efforts to promptly obtain such written consents and authorizations of third parties, give notices to third parties and take such other actions as may be necessary or appropriate in order to effect the consummation of the Asset Acquisition and the other transactions contemplated by this Agreement.

5.4 Litigation.

Company will notify Union in writing promptly after learning of any claim, action, suit, arbitration, mediation, proceeding or investigation by or before any court, arbitrator or arbitration panel, board or governmental agency, initiated by or against it, or known by Company to be threatened against Company or any of its Members, management committee members, or employees in their capacity as such.

5.5 No Other Negotiations.

Unless this Agreement shall have been terminated according to its terms, Company will not, and will not authorize, encourage or permit any director, officer, employee, Member, affiliate or agent of Company or any attorney, investment banker, advisor, representative or other Person on Company's or their behalf to, directly or indirectly: (i) solicit, initiate, encourage or induce the making, submission or announcement of any offer or proposal from any Person concerning any Alternative Transaction (as defined below) or take any other action that could reasonably be expected to lead to an Alternative Transaction or a proposal therefor; (ii) consider any inquiry, offer or proposal received from any party concerning any Alternative Transaction (other than to respond to such inquiry, offer or proposal by indicating that Company is not interested in any Alternative Transaction); (iii) furnish any information regarding Company to any Person (other than Union) in connection with or in response to any inquiry, offer or proposal for or regarding any Alternative Transaction (other than to respond to such inquiry, offer or proposal by indicating that Company is not interested in any Alternative Transaction); (iv) participate in any discussions or negotiations with any Person (other than Union) with respect to any Alternative Transaction (other than to respond to such inquiry, offer or proposal by indicating that Company is not interested in any Alternative Transaction); (v) cooperate with, facilitate or encourage any effort or attempt by any Person (other than Union) to effect any Alternative Transaction; or (vi) execute, enter into or become bound by any letter of intent, agreement, commitment or understanding between Company and any Person (other than Union) that is related to, provides for or concerns any Alternative Transaction. Company will promptly notify Union orally and in writing of any inquiries or proposals received by Company or its directors, officers, employees, Members, affiliates or agents regarding any Alternative Transaction and will, unless otherwise prohibited from doing so, identify the party making the inquiry or proposal and the nature and terms of any inquiry or proposal. Any violation of the restrictions set forth in this Section 5.7 by any director, officer or employee of Company or any attorney, investment banker or other director or representative of Company shall be deemed a breach of this Section 5.7 by Company. As used herein, the term "*Alternative Transaction*" means any commitment, agreement or

transaction involving or providing for the possible disposition of all or any substantial portion of Company's business, assets or ownership interests, whether by way of merger, consolidation, sale of assets, sale of ownership, tender offer and/or any other form of business combination.

5.6 Access to Information.

Subject to the terms and conditions of this Agreement relating to the confidentiality and use of confidential and proprietary information, Company will allow Union and its agents reasonable access during normal business hours to the files, books, records, technology, contracts, personnel and offices of Company, including, but not limited to, any and all information relating to Company's taxes, commitments, contracts, leases, licenses, liabilities, financial condition and real, personal and intangible property. Company will cause its accountants to cooperate with Union and its agents in making available all financial information reasonably requested by Union, including the right to examine all working papers pertaining to all financial statements prepared or audited by such accountants.

5.7 Satisfaction of Conditions Precedent.

Company will use all commercially reasonable efforts to satisfy or cause to be satisfied all the conditions precedent that are set forth in Article 8, and Company will use all commercially reasonable efforts to cause the Asset Acquisition and the other transactions contemplated by this Agreement to be consummated in accordance with the terms of this Agreement.

5.8 Meeting of Company Members.

As soon as reasonably practicable after the Agreement Date, Company will take all action necessary in accordance with the laws of the State of Utah and its charter documents for the purpose of voting upon this Agreement and the Asset Acquisition or to secure the written consent of Company Members (such meeting or written consent, the "*Company Members' Meeting*"). Notwithstanding anything to the contrary contained in this Agreement, Company may adjourn or postpone the Company Members' Meeting to the extent necessary to ensure that there is sufficient ownership of Company Percentage Interest represented (either in person or by proxy) to conduct the business at the Company Members' Meeting.

5.9 Noncompetition Agreements.

Each individual listed on Exhibit A shall execute and deliver to Union a noncompetition agreement in the form attached hereto as Exhibit B ("Noncompetition Agreement").

ARTICLE 6 UNION COVENANTS

During the time period from the Agreement Date until the earlier to occur of (a) the Effective Time or (b) the termination of this Agreement in accordance with the provisions of Article 9 (or during such other time period as may be specified below), Union covenants and agrees with Company as follows:

6.1 Advice of Changes.

Union will promptly advise Company in writing of any (a) event occurring subsequent to the Agreement Date that would render any representation or warranty of Union contained in this Agreement, if made on or as of the date of such event or the Closing Date, untrue or inaccurate, or (b) breach of any covenant or obligation of Union pursuant to this Agreement, any Union Ancillary Agreement, or (c) Material Adverse Change in Union.

6.2 Notification of Certain Matters.

Union shall give prompt notice to Company of (a) the occurrence or nonoccurrence of any event that would be likely to cause any representation or warranty made by Union contained in this Agreement to be untrue or inaccurate in any material respect and (b) any material failure by such party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 6.2 shall not limit or otherwise affect the remedies available to Company hereunder.

ARTICLE 7 CLOSING MATTERS

Subject to termination of this Agreement as provided in Article 9, the closing of the transactions to consummate the Asset Acquisition (the "*Closing*") will take place by the execution of this Agreement and such other documents as may be required hereunder and the exchange of such documents by facsimile transmission to the fax numbers set forth in Section 11.9 on the first business day after all of the conditions to Closing set forth in Section 8 have been satisfied and/or waived in accordance with this Agreement, or at such other place, time or date as Union and Company may mutually agree but in any event no later than May 25, 2002 (the "*Closing Date*").

ARTICLE 8 CONDITIONS TO OBLIGATIONS OF COMPANY

Union's obligation to consummate the Asset Acquisition is subject to the fulfillment or satisfaction, on and as of the Closing, of each of the following conditions (any one or more of which may be waived by Union, but only in a writing signed by Union):

8.1 Accuracy of Representations and Warranties.

The representations and warranties of Company set forth in this Agreement (a) that are qualified as to materiality shall be true and correct and (b) that are not qualified as to materiality shall be true and correct in all material respects, except for changes contemplated by this Agreement, in each case on and as of the Closing, with the same force and effect as if they had been made on the Closing Date (except for any such representations or warranties that, by their terms, speak only as of a specific date or dates, in which case such representations and warranties that are qualified as to materiality shall be true and correct, and such representations and warranties that are not qualified as to materiality shall be true and correct in all material respects, on and as of such specified date or dates), and at the Closing, Union will have received a certificate to such effect executed by the Managing Member of Company.

8.2 Covenants.

Company will have performed and complied in all material respects with all of its covenants contained in this Agreement and any Company Ancillary Agreement at or before the Closing (to the extent that such covenants require performance by Company on or before the Closing), and at the Closing, Union will have received a certificate to such effect executed by the Managing Member of Company.

8.3 No Material Adverse Change.

There will not have been any Material Adverse Change in Company, whether or not resulting from a breach in any representation, warranty or covenant in this Agreement, and at the Closing Union will have received a certificate to such effect executed by the Managing Member of Company.

8.4 Compliance with Law; No Legal Restraints; No Litigation.

There will not be issued, enacted or adopted, or threatened in writing by any Governmental Authority, any order, decree, temporary, preliminary or permanent injunction, legislative enactment, statute, regulation, action or proceeding, or any judgment or ruling by any Governmental Authority, that prohibits or renders illegal or imposes limitations on: (a) the Asset Acquisition or any other material transaction contemplated by this Agreement or any Company Ancillary Agreement; or (b) Union's right to own, retain, use or operate any of the products, properties or assets of Company (or any of its Subsidiaries) on or after consummation of the Asset Acquisition or seeking a disposition or divestiture of any such products, properties or assets. No litigation or proceeding will be threatened or pending for the purpose or with the probable effect of enjoining or preventing the consummation of any of the transactions contemplated by this Agreement, or that could be reasonably expected to have a Material Adverse Effect on Company, its Subsidiaries or Union.

8.5 Government Consents.

There will have been obtained at or prior to the Closing Date such permits or authorizations, and there will have been taken all such other actions by any Governmental Authority having jurisdiction over the parties and the actions herein proposed to be taken, as may be required to consummate the Asset Acquisition, including, but not limited to, requirements under applicable federal and state securities laws.

8.6 Consents.

Union shall have received duly executed copies of certain third-party consents, approvals, assignments, notices, releases, waivers, authorizations or other certificates identified on Schedule 3.5 of the Company Disclosure Letter that treat the Asset Acquisition as an assignment or otherwise require by their terms consent.

8.7 Company Member Approvals.

This Agreement, the Company Ancillary Agreements and the Asset Acquisition will have been duly and validly approved and adopted, as required by applicable law and Company's chart documents and applicable laws of the State of Utah.

8.8 Invention Assignment Matters.

Each individual listed on Exhibit A shall have entered into an Employee/Member Invention Assignment and Confidentiality Agreement substantially in the form attached hereto as Exhibit C.

8.9 Asset Assignment.

The Managing Member will have executed an assignment of all right title and interest in and to the Assets in the form attached hereto as Exhibit D ("Asset Assignment Agreement").

ARTICLE 9 TERMINATION OF AGREEMENT

9.1 Termination by Mutual Consent.

This Agreement may be terminated at any time prior to the Effective Time by the mutual written consent of Union and Company.

9.2 Unilateral Termination.

9.2.1 Either Union or Company, by giving written notice to the other, may terminate this Agreement if a court of competent jurisdiction or other U.S. Governmental Authority or Foreign Governmental Authority shall have issued a nonappealable final order, decree or ruling or taken any other action, in each case having the effect of permanently

restraining, enjoining or otherwise prohibiting the Asset Acquisition; provided, however, that the party seeking to terminate this Agreement pursuant to this Section 9.2.1 shall have used all reasonable efforts to remove such final order, decree or ruling.

9.2.2 Either Union or Company, by giving written notice to the other, may terminate this Agreement if the Asset Acquisition Transaction shall not have been consummated by midnight Pacific Time on the Termination Date; provided, however, that the right to terminate this Agreement pursuant to this Section 9.2.2 shall not be available to any party whose failure to perform in any material respect any of its obligations or covenants under this Agreement results in the failure of any condition set forth in Article 8 if the failure of such condition results from facts or circumstances that constitute a material breach of a representation or warranty or covenant made under this Agreement by such party.

9.2.3 Either Union or Company may terminate this Agreement at any time prior to the Effective Time if the other party has committed a material breach of (a) any of such party's representations and warranties contained in this Agreement or (b) any of such party's covenants contained in this Agreement, and has not cured such material breach within ten (10) days after the party seeking to terminate this Agreement has given the other party written notice of the material breach and its intention to terminate this Agreement pursuant to this Section 9.2.3.

9.2.4 After the Effective Date, in the event Union fails to make payment when due as described above in Section 2.1.2, Company may declare a default and terminate this Agreement if Union fails to cure such default within thirty (30) days after Union's receipt of written notice thereof from Company. In the event that this Agreement is terminated pursuant to this Section, Union shall convey, transfer and set over assets to the Company on a "most preferred debt" status established and controlled under a security agreement (including UCC financing statement) in all of Unions assets including any improvements, additions, or derivatives thereto, (or thereof as the case may be), including any investment therein made by its shareholders employees, consultants, investors, and independent contractors.

9.3 No Liability for Termination.

Termination of this Agreement by a party (the "*Terminating Party*") in accordance with the provisions of this Article 9 will not give rise to any obligation or liability on the part of the Terminating Party on account of such termination; provided, nothing herein shall relieve a party from liability for a willful breach of this Agreement. The provisions of Article 10 and Article 112 shall survive any termination of this Agreement.

ARTICLE 10
**SURVIVAL OF REPRESENTATION, INDEMNIFICATION
AND REMEDIES, CONTINUING COVENANTS**

10.1 Survival of Representations and Warranties.

All representations and warranties of Company and Union contained in this Agreement and the other agreements, certificates and documents contemplated hereby will remain operative and in full force and effect, regardless of any investigation made by or on behalf of any of the parties to this Agreement.

10.2 Company's Agreement to Indemnify.

Company and its Members will, indemnify and hold harmless Union and its officers, directors, agents, representatives, shareholders and employees, and each Person, if any, who controls or may control Union within the meaning of the Securities Act or the Exchange Act (each hereinafter referred to individually as a "*Union Indemnified Person*" and collectively as "*Union Indemnified Persons*") from and against any and all claims, demands, suits, actions, causes of actions, losses, costs, damages, liabilities and expenses including reasonable attorneys' fees, other professionals' and experts' reasonable fees, and court or arbitration costs (hereinafter collectively referred to as "*Damages*") directly or indirectly incurred, paid or accrued in connection with or resulting from or arising out of: (i) any material and willful inaccuracy, misrepresentation, breach of, or default in, any of the representations, warranties or covenants given or made by Company in this Agreement or in the Company Disclosure Letter or in any certificate delivered by or on behalf of Company or an officer of Company pursuant hereto. Notwithstanding the foregoing, Union will seek indemnification only from such Member or Members who directly or indirectly committed the willful conduct set forth above in (i). Company Individual Members will have signed Non-disclosure agreements and will therefore be held individually liable (limited to the value of individual ownership) for any material and willful inaccuracy, misrepresentation, breach, default or improper disclosure resulting in damage to Union or the value of Assets associated with this Agreement.

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GENERAL PROVISIONS

11.1 Governing Law; Jurisdiction and Venue.

The laws of the State of Washington, irrespective of its choice of law principles, will govern the validity of this Agreement, the construction of its terms, and the interpretation and enforcement of the rights and duties of the parties hereto. Tarian irrevocably consents to the jurisdiction and venue of the state and federal courts located in King County, State of Washington in connection with any action, suit, proceeding or claim arising under or by reason of this Agreement.

11.2 Assignment; Binding Upon Successors and Assignees.

Neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party hereto. Any assignment in violation of this provision shall be void. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

11.3 Severability.

If any provision of this Agreement, or the application thereof, will for any reason and to any extent be invalid or unenforceable, then the remainder of this Agreement and the application of such provision to other Persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

11.4 Counterparts.

This Agreement may be executed in any number of counterparts, each of which will be an original as regards any party whose signature appears thereon and all of which together will constitute one and the same instrument. This Agreement will become binding when one or more counterparts hereof, individually or taken together, bear the signatures of all parties reflected hereon as signatories. Facsimile copies of signatures hereon shall be deemed binding and carry the same force and effect as originals thereof.

11.5 Other Remedies.

Except as otherwise provided herein, any and all remedies herein expressly conferred upon a party hereunder will be deemed cumulative with and not exclusive of any other remedy conferred hereby or by law on such party, and the exercise of any one remedy will not preclude the exercise of any other. The parties hereto agree that irreparable damage would occur in the event that Tarian fails to perform or breaches any of the specific provisions of this Agreement. It is accordingly agreed that Union shall be entitled to seek an injunction or injunctions to prevent Tarian's breach of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction.

11.6 Amendment and Waivers.

Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the party to be bound thereby. The waiver by a party of any breach hereof or default in the performance hereof will not be deemed to constitute a waiver of any other default or any succeeding breach or default. This Agreement may be amended by the parties hereto as provided in this Section 12.6 at any time before or after approval of this Agreement by the Company's Members, but, after such

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approval, no amendment will be made that by applicable law requires the further approval of the Company's Members without obtaining such further approval. At any time prior to the Effective Time, each of Company and Union, by action taken by its respective Management Committee or Board of Directors, may, to the extent legally allowed: (i) extend the time for the performance of any of the obligations or other acts of the other; (ii) waive any inaccuracies in the representations and warranties made to it contained herein or in any document delivered pursuant hereto; and (iii) waive compliance with any of the agreements or conditions for its benefit contained herein. No such waiver or extension will be effective unless signed in writing by the party against whom such waiver or extension is asserted. The failure of any party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

11.7 Expenses.

Each party will bear its respective legal, auditors', and other expenses incurred with respect to this Agreement, the Asset Acquisition and the transactions contemplated hereby ("*Transaction Expenses*").

11.8 Attorneys' Fees.

Should suit be brought to enforce or interpret any part of this Agreement, the prevailing party will be entitled to recover, as an element of the costs of suit and not as damages, reasonable attorneys' fees to be fixed by the court (including costs, expenses and fees on any appeal). The prevailing party will be entitled to recover its costs of suit, regardless of whether such suit proceeds to final judgment.

11.9 Notices.

All notices and other communications required or permitted under this Agreement will be in writing and will be either hand delivered in person, sent by facsimile, sent by certified or registered first class mail, postage pre-paid, or sent by nationally recognized express courier service. Such notices and other communications will be effective upon receipt if hand delivered or sent by facsimile, five days after mailing if sent by mail, and one day after dispatch if sent by express courier, to the following addresses, or such other addresses as any party may notify the other parties in accordance with this Section 12.9:

If to Union:

Union Recovery Corporation
15911 NE 59th Way
Redmond, WA 98052
Attention: President
Fax Number: 425-881-0868

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If to Company:

Tarian LLC
235 West 100 South Salt Lake City, Utah 84101
Attention: Larry Lunt
Fax Number: 801-328-1827

If to a Company Member: at the most recent address of such Company Member reflected in the ownership records maintained by Company or to such other address as a party may have furnished to the other parties in writing pursuant to this Section 12.9.

11.10 Interpretation; Rules of Construction.

When a reference is made in this Agreement to Exhibits, such reference shall be to an Exhibit to this Agreement unless otherwise indicated. When a reference is made in this Agreement to Sections, such reference shall be to a Section of this Agreement unless otherwise indicated. When a reference is made in this Agreement to Articles, such reference shall be to an Article of this Agreement unless otherwise indicated. The words "*include*," "*includes*" and "*including*" when used herein shall be deemed in each case to be followed by the words "*without limitation*." The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. When reference is made herein to "*the business of*" an entity, such reference shall be deemed to include the business of all direct and indirect subsidiaries of such entity. Reference to the subsidiaries of an entity shall be deemed to include all direct and indirect subsidiaries of such entity. The parties hereto agree that they have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

11.11 No Joint Venture.

Nothing contained in this Agreement will be deemed or construed as creating a joint venture or partnership between any of the parties hereto. No party is by virtue of this Agreement authorized as an agent, employee or legal representative of any other party. No party will have the power to control the activities and operations of any other and their status is, and at all times will continue to be, that of independent contractors with respect to each other. No party will have any power or authority to bind or commit any other party. No party will hold itself out as having any authority or relationship in contravention of this Section 11.11.

11.12 Further Assurances.

Each party agrees to cooperate fully with the other parties and to execute such further instruments, documents and agreements and to give such further written assurances as may be reasonably requested by any other party to evidence and reflect the transactions described

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herein and contemplated hereby and to carry into effect the intents and purposes of this Agreement.

11.13 Third Party Beneficiary Rights.

No provisions of this Agreement are intended, nor will be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, shareholder or partner of any party hereto or any other Person unless specifically provided otherwise herein and, except as so provided, all provisions hereof will be personal solely between the parties to this Agreement; except that Article 10 is intended to benefit the Indemnified Parties.

11.14 Company Disclosure Letter.

The Company Disclosure Letter shall be arranged in separate parts corresponding to the numbered and lettered sections contained in Article 3, and the information disclosed in any numbered or lettered part shall be deemed to relate to and to qualify only the particular representation or warranty set forth in the corresponding numbered or lettered section in Article 3 and shall not be deemed to relate to or to qualify any other representation or warranty.

11.15 Union Disclosure Letter.

The Union Disclosure Letter shall be arranged in separate parts corresponding to the numbered and lettered sections contained in Article 4, and the information disclosed in any numbered or lettered part shall be deemed to relate to and to qualify only the particular representation or warranty set forth in the corresponding numbered or lettered section in Article 4 and shall not be deemed to relate to or to qualify any other representation or warranty.

11.16 Confidentiality.

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Company and Union each confirm that they have entered into the Non-disclosure Agreement dated on or about _____ and that they are each bound by, and will abide by, the provisions of such Confidentiality Agreement. If this Agreement is terminated, the Non-disclosure Agreement shall remain in full force and effect, and all copies of documents containing confidential information of a disclosing party will be returned by the receiving party to the disclosing party or be destroyed, as provided in the Non-disclosure Agreement.

11.17 Entire Agreement.

This Agreement, the Exhibits, Schedules and each of the agreements, instruments and documents to be executed or delivered pursuant to the terms of this Agreement hereto constitute the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and supersede all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the

parties with respect hereto. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof.

11.18 Waiver Of Jury Trial. THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ACTIONS RELATED TO THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TARIAN LLC

UNION RECOVERY CORPORATION

By: Larry K. Lunt
Name: LARRY K. LUNT
Title: MANAGER

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO ASSET ACQUISITION AGREEMENT]

FROM : PMI-24-2002 15:21

FAX NO. : 4258810969
ESTERN PROPERTY MENTMay. 27 2002 09:21PM P2
P. 38/38

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TARIAN LLC

UNION RECOVERY CORPORATION

By: Larry L. ScottBy: Jason L. KapName: LARRY L. SCOTTName: Jason L. KapTitle: MANAGERTitle: President

{SIGNATURE PAGE TO ASSET ACQUISITION AGREEMENT}

[Asset Acquisition Agreement Union (2) firm 5-21-02]

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TOTAL P. 30

LIST OF EXHIBITS AND SCHEDULES

- | | |
|------------|--|
| Exhibit A | List of Members |
| Exhibit B | Form of Noncompetition Agreement |
| Exhibit C | Form of Employee/Member Invention Assignment and Confidentiality Agreement |
| Exhibit D | Form of Asset Assignment Agreement |
| Schedule 1 | Company Disclosure Schedule |
| Schedule 1 | Union Disclosure Schedule |

EXHIBIT A

LIST OF MEMBERS

Name of Member	(Approx)	Ownership Percentage
Keystone LLC	31.80	
Key LC	11.46	
Kevin Nelsen	10.10	
Matt Pettit	10.28	
David Grant	10.27	
Erich Erker	9.40	
Rick Murakami	8.97	
Clark Hinton	0.75	
Robert Allgood	0.69	
John Lunt	0.79	
Larry V. Lunt	0.75	
Ella Nicholas	0.74	
Chuck Taylor	0.70	
Rick Huddleston	0.70	
Spencer Grant	0.70	
Wayne Johnson	0.70	
Roberto Buchanan	0.60	
William Kepsel	0.60	
Bryson Hinton	0.01	
 TOTAL:		100

EXHIBIT B

FORM OF NONCOMPETITION AGREEMENT

NONCOMPETITION AGREEMENT

THIS NONCOMPETITION AGREEMENT (this "*Agreement*") is made and entered into as of May ___, 2002 by and between _____ ("Selling Member"), a Utah resident, and Union Recovery Corporation, a Washington corporation ("Union").

RECITALS

A. Pursuant to an Asset Acquisition Agreement of even date herewith by and among Union, Tarian LLC, a Utah limited liability company ("Tarian"), and the members of Tarian (the "Acquisition Agreement"), Union is acquiring all of the Assets of Tarian (the "Asset Acquisition"). Capitalized terms used without definition herein shall have the same meanings ascribed to them in the Acquisition Agreement.

B. Selling Member owns a percentage membership interest in Tarian, and/or is an officer and/or key employee of Tarian whose talents and abilities have been critical to Tarian's ability to successfully carry on its business. Accordingly, the execution and delivery of this Agreement by Selling Member is a material inducement to the willingness of Union to enter into the Acquisition Agreement, and is a condition to Union's obligation to close the Asset Acquisition and the other transactions contemplated by the Acquisition Agreement.

C. The parties hereto recognize that Selling Member has unique knowledge and experience regarding Tarian's business, and Union desires to be assured that confidential and proprietary information pertaining to the Assets will be preserved and protected and will inure to the benefit of Union.

Now, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and conditions contained herein, the parties hereby agree as follows:

1. Acknowledgments By Selling Member. Selling Member acknowledges that the promises and restrictive covenants that Selling Member is providing in this Agreement are reasonable and necessary to the protection of Union's legitimate interests in Union's acquisition of Tarian's business and Assets (including Tarian's goodwill) pursuant to the Acquisition Agreement. Selling Member acknowledges that, in connection with the acquisition of the Assets, Tarian is receiving cash for the Assets, and as a result, Selling Member is receiving a substantial benefit for the consummation of the Asset Acquisition. Selling Member acknowledges that the execution and delivery of this Agreement by Selling Member is a material inducement to the willingness of Union to enter into the Acquisition Agreement, and is a condition to Union's obligation to close the Asset Acquisition and the other transactions contemplated by the Acquisition Agreement.

2. Definitions.

(a) Affiliate. As used in this Agreement, the term "*Affiliate*" will have the meaning given to such term in Rule 405 of Regulation C promulgated under the Securities Act of 1933, as amended, and refers both to a present and future Affiliate.

(b) Competing Business. As used herein, a business or activity is a "Competing Business" if it is engaged in (i) the business or activity of developing, producing, marketing, selling or otherwise exploiting products, services or technologies of Tarian currently existing or under development as of the Effective Time, (ii) the business or activity of developing, producing, marketing, selling or otherwise exploiting products, services or technologies of Union currently existing or under development, as described in any business plan, product development plan or proposal of Union in existence at any time with respect to which Selling Member has involvement or information, (iii) any business or activity that uses any intellectual property of Tarian or Union with respect to which Selling Member has involvement or information as of the Effective Time, or (iv) the business of providing consulting services with respect to any of the activities described in the preceding clauses (i), (ii) or (iii).

(c) Engage in Business. As used in Section 3 of this Agreement, each of the following activities, without limitation, shall be deemed to constitute "*engage in the business*": to engage in, carry on, work with, be employed by, consult for, invest in, solicit customers for, have an interest in, advise, lend money to, guarantee the debts or obligations of, contribute, sell or license intellectual property to, or permit one's name or any part thereof to be used in connection with, any enterprise or endeavor, either individually, in partnership or in conjunction with any person, firm, association, partnership, limited liability company, corporation or other business, whether as principal, agent, shareholder, partner, member, director, officer, employee, consultant, or in any other manner whatsoever. Nothing contained in this Agreement shall prohibit Selling Member from (i) being employed by or serving as a consultant to Union (or any other Affiliate, as defined below, of Union) or (ii) acquiring or holding at any one time a passive investment of less than 1% of the outstanding shares of the capital stock of a publicly held corporation if Selling Member is not otherwise associated in any manner described in clause (b) of Section 3 with such corporation or any Affiliate of such corporation.

(d) Termination. As used in Section 4 of this Agreement, "*Termination*" means such time that Selling Member ceases to be employed with Tarian, Union or any of its Subsidiaries.

3. Noncompetition. During the period commencing on the Effective Date and ending on the later of (a) the second anniversary of the Effective Date or (b) the date that Selling Member ceases performing services for Tarian, Union or any subsidiary of Union, Selling Member shall not:

(a) directly or indirectly engage in any Competing Business;

(b) be or become an officer, director, stockholder, owner, salesperson, co-owner, partner, trustee, promoter, technician, engineer, analyst, employee, agent, representative, supplier, investor or lender, consultant, advisor or manager of or to, or otherwise acquire or hold any interest in, any person or entity that directly or indirectly engages in a Competing Business; or

(c) permit Selling Member's name to be used in connection with a business that engages in the Competing Business.

4. Nonsolicitation. In addition to, and not in limitation of, the noncompetition covenants of Selling Member in Section 3 above, Selling Member agrees that for a period equal to the greater of (i) two (2) years from the Effective Date, or (ii) one (1) year after Termination, Selling Member will not, either for Selling Member or for any other person or entity, directly or indirectly:

(a) solicit, induce or attempt to solicit or induce any employee or consultant of Tarian or Union, or any of their Affiliates to terminate his or her employment with Union or any of its Affiliates; or

(b) solicit business from, or attempt to sell, license or provide the same or similar products or services as are provided at the Effective Time by Tarian or Union or any of their Affiliates to, any of its customers or suppliers, if the identity of the supplier or customer or information about the supplier or customer relationship is a trade secret or is otherwise deemed confidential information within the meaning of Washington law. Selling Member hereby acknowledges that, unless previously disclosed to the public, the identities, addresses, and business needs of the past, current, prospective clients, customers and suppliers of Tarian and Union and their Affiliates are confidential and proprietary information and trade secrets of Tarian and Union, respectively, and that this Agreement imposes on Selling Member a duty not to disclose such information or use such information to the detriment of Union or its Affiliates in violation of this Agreement.

5. Miscellaneous.

(a) Specific Performance. Selling Member agrees that in the event of any breach or threatened breach by Selling Member of any covenant, obligation or other provision contained in this Agreement, Union shall be entitled (in addition to any other remedy that may be available to it), to the extent permitted by applicable law, to (i) a decree or order of specific performance to enforce the observance and performance of such covenant, obligation or other provision and (ii) an injunction restraining such breach or threatened breach.

(b) Non-Exclusivity. The rights and remedies of Union hereunder are not exclusive of or limited by any other rights or remedies that Union may have, whether at law, in equity, by contract or otherwise, all of which shall be cumulative (and not alternative). Without limiting the generality of the foregoing, the rights and remedies of Union hereunder, and the obligations and liabilities of Selling Member hereunder, are in addition to their respective rights, remedies, obligations and liabilities under the law of unfair competition, misappropriation of trade secrets and the like. This Agreement does not limit Selling Member's obligations or rights or the obligations or rights of Union (or any affiliate of Union) under the terms of (i) a Selling Member Invention Assignment and Confidentiality Agreement with Union, or (ii) the terms of any other agreement between Selling Member and Union.

(c) Notices. Any notice or other communication required or permitted to be delivered to Selling Member or Union under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by courier or express delivery service or by facsimile) to the address or facsimile telephone number set forth beneath the name of such party below (or to such other address or facsimile telephone

number as such party shall have specified in a written notice delivered in accordance with this Subsection (c)):

If to Union:

Union Recovery Corporation
15911 NE 59th Way
Redmond, WA 98052
Attention: President
Fax Number: 206-652-3411

If to Selling Member:

At Selling Member's address listed on the signature page hereto.

(d) Severability. If any provision of this Agreement or any part of any such provision is held under any circumstances to be invalid or unenforceable in any jurisdiction, then (i) such provision or part thereof shall, with respect to such circumstances and in such jurisdiction, be deemed amended to conform to applicable laws so as to be valid and enforceable to the fullest possible extent, (ii) the invalidity or unenforceability of such provision or part thereof under such circumstances and in such jurisdiction shall not affect the validity or enforceability of such provision or part thereof under any other circumstances or in any other jurisdiction, and (iii) the invalidity or enforceability of such provision or part thereof shall not affect the validity or enforceability of the remainder of such provision or the validity or enforceability of any other provision of this Agreement and is separable from every other part of such provision.

(e) Governing Law. This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the State of Washington (without giving effect to principles of conflicts of laws).

(f) Waiver. No failure on the part of Union to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of Union in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Union shall not be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

(g) Headings. The headings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

(h) Further Assurances. At Union's cost and expense, Selling Member shall execute and/or cause to be delivered to Union such instruments and other documents and shall

take such other actions as Union may reasonably request to effectuate the intent and purposes of this Agreement.

(i) Entire Agreement. This Agreement, the Selling Member and Invention Assignment and Confidentiality Agreement set forth the entire understanding of Selling Member and Union relating to the subject matter hereof and thereof and supersede all prior agreements and understandings between any of such parties relating to the subject matter hereof and thereof.

(j) Amendments. This Agreement may not be amended, modified, altered or supplemented other than by means of a written instrument duly executed and delivered on behalf of Union and Selling Member.

(k) Assignment. This Agreement and all obligations hereunder are personal to Selling Member and may not be transferred or assigned by Selling Member at any time. Union may assign its rights under this Agreement in whole or in part, without the consent or approval of Selling Member or any other person or entity, in connection with (i) the sale of Union, or (ii) the sale or other transfer of all or a substantial part of the assets or business of Union.

(l) Attorneys' Fees. If any legal action or other legal proceeding relating to this Agreement or the enforcement of any provision of this Agreement is brought against any party to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements (in addition to any other relief to which the prevailing party may be entitled).

(m) Effective Date. This Agreement shall become effective at the Effective Time.

(n) Binding Nature; Interpretation Of This Agreement. Subject to Subsection (k), this Agreement will be binding upon Selling Member and Selling Member's representatives, executors, administrators, estate, heirs, successors and assigns, and will inure to the benefit of Union and its respective successors and assigns. The parties agree that this Agreement shall not be interpreted against either party solely because attorneys for Union drafted this Agreement.

(o) Pronouns. All pronouns contained herein and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties hereto may require.

(p) Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original as regards any party whose signature appears thereon and all of which together will constitute one and the same instrument. This Agreement will become binding when one or more counterparts hereof, individually or taken together, will bear the signatures of all parties reflected hereon as signatories.

(q) No Employment. Selling Member understands that this Agreement does not constitute a contract of employment or obligate Union to employ Selling Member for any stated period of time.

IN WITNESS WHEREOF, the parties here executed this Agreement as of the date first written above.

"UNION"

By:

Name:

Title:

"SELLING MEMBER"

[insert name]

Address:

Street

City, State and Zip Code

Facsimile Number:

[SIGNATURE PAGE TO NONCOMPETITION AGREEMENT]

EXHIBIT C

FORM OF EMPLOYEE/MEMBER INVENTION ASSIGNMENT AND CONFIDENTIALITY AGREEMENT

EXHIBIT D

FORM OF ASSET ASSIGNMENT AGREEMENT